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|-------------------------------|------------------------|---------------------|--|
| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/802,586 | MUNTER ET AL. | |
| | Examiner | Art Unit | |
| | BEN C. WANG | 2192 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 7/13/2009 and Appeal Brief filed 6/29/2010 respectively.
2. ☒ The allowed claim(s) is/are 1-4, 7-11, 13-18, 20-26, and 28-33 (renumbered as 1-28).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☒ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date ____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date <u>20101023</u>. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other ____. |
|--|---|

/Ben C Wang/
Examiner, Art Unit 2192

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192

DETAILED ACTION

1. Applicant's appeal brief dated June 29, 2010, responding to the Office action mailed November 24, 2009 provided in the rejection of claims 1-4, 7-11, 13-18, 20-26, and 28-33, has been fully considered. Examiner withdrew the previous Final action and the remaining pending claims are being allowed.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview by Mr. Andrew R. Smith (Reg. No. 62,162) on October 25, 2010 to obviate any potential 35 U.S.C 112, 2nd paragraph issues and to place the claims in the condition for allowance.

4. In the interest of compact prosecution, the examiner is authorized to further amend the claims 7 and 8 (see Examiner's Amendment below) to obviate any potential 35 U.S.C 112, second paragraph issues.

5. The application has been amended as follows:

Art Unit: 2192

IN THE CLAIMS,

Please amend claims 7 and 8 as follows:

7. (Currently Amended)

At line 1, delete [claim 6] and insert claim 1.

8. (Currently Amended)

At line 1, delete [claim 6] and insert claim 1.

- END OF AMENDMENT -

Allowable Subject Matter

6. Claims 1-4, 7-11, 13-18, 20-26, and 28-33 (renumbered as 1-28) are allowed.

7. The following is an examiner's statement of reasons for allowance:

As Appellant(s) pointed out in the Argument section (Analysis, pp. 9-13), *Chauvel* does not teach or suggest determining an initial number of times to interpretively execute non-native instructions are generally recited in the independent claims, the cited prior arts of record (*Chauvel* in view of *Chheda*) taken alone or in combination does not disclose and/or fairly suggest a method, an article, and/or a system for

"... receiving a plurality of non-native instructions in a selected one of a source form and an intermediate form;

determining an initial number of times to interpretively execute the plurality of non-native instructions;

interpretively executing the plurality of non-native instructions the initial number of times;

monitoring execution of the plurality of non-native instructions to determine when the plurality of non-native instructions have been interpretively executed the initial number of times;

compiling the plurality of non-native instructions to generate object code for the non-native instructions only after interpretively executing the plurality of non-native instructions the initial number of times, wherein compiling the plurality of non-native instructions includes replacing an object code segment from the

Art Unit: 2192

generated object code with an alternative object code segment if the alternative object code segment improves at least a selected one of an execution power level required and an execution energy level required to execute the generated object code in a target execution environment.”, as recited in such manners in independent claim 1 and similarly recited in independent claims 11, 15, 18, 22, and 26.

8. Claims 2-4 & 7-10, claims 13, 14 & 31, claims 16 & 17, claims 20, 21 & 32, claims 23-25 and claims 28-30 & 33 are considered allowable by virtue of their dependence on allowable independent claims 1, 11, 15, 18, 22, and 26, respectively.

9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ben C. Wang whose telephone number is (571) 270-1240. The examiner can normally be reached on 8:00-5:30 (EST/EDT), Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for

Art Unit: 2192

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ben C Wang/

Examiner, Art Unit 2192

/Tuan Q. Dam/

Supervisory Patent Examiner, Art Unit 2192

Application/Control Number: 10/802,586
Art Unit: 2192

Page 7